

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CARLOS NIN,
Plaintiff

05 C 1 } 042 NG

V.

CIVIL ACTION FILE NO.

MICHAEL CHERTOFF, as Secretary of the
Department of Homeland Security; EDUARDO
AGUIRRE, Director of the U.S. Citizenship &
Immigration Services; DENNIS RIORDAN, as
District Director of the U.S. Citizenship &
Immigration Services for Boston District Office,
Defendants

RECEIPT # 64380
AMOUNT \$ 6
SUMMONS ISSUED N/A
LOCAL RULE 4.1
WAIVER FORM
MCF ISSUED
BY DATE CLK. 6

PLAINTIFF'S ORIGINAL COMPLAINT
FOR WRIT OF HABEAS CORPUS PURSUANT TO
28 USC Section 2241

NOW comes Carlos Nin, Plaintiff in the above-captioned matter, and hereby states as follows:

1. This action is brought against the Defendants to request that the District Court take jurisdiction of the petitioner's applications pursuant to 28 U.S.C.A. § 2241 which identifies the authority granted to the district courts and any circuit judge within their respective jurisdictions to grant relief to an individual that is held in custody in violation of the Constitution or laws or treaties of the United States.

PARTIES

2. Plaintiff, Carlos Nin, is an individual who resides at 31 Sargent Street, 3rd Floor, Lawrence, Massachusetts, who properly filed an I-485 Petition for an Immigrant Visa as the spouse of a U.S. Citizen with the U.S. Citizenship & Immigration Services (USCIS).
3. Defendant Thomas Ridge is the Secretary of the Department of Homeland Security, and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the Department of Homeland Security. 8 USC §1103(a). More specifically, the Secretary of the Department of Homeland Security is responsible for the adjudication of applications for nonimmigrant visas filed pursuant to the Immigration and Nationality Act (INA). The U.S. Citizenship & Immigration Services is an agency within the Department of Homeland Security to whom the Secretary of the Department of Homeland Security's authority has in part been delegated, and is subject to the Secretary of the Department of Homeland Security's supervision.
4. Defendant Eduardo Aguirre is the Director of the U.S. Citizenship & Immigration

Services (USCIS) and an official generally charged with supervisory authority over all operations of the USCIS with certain specific exceptions not relevant here. 8 CFR §103.1(g)(2)(ii)(B).

5. Defendant Carlos Nin, District Director, is an official of the U.S. Citizenship & Immigration Services (USCIS) generally charged with authority over operations of the USCIS within his District with certain specific exceptions not relevant here. 8 CFR §103.1(g)(2)(ii)(B). As will be shown, Defendant District Director is the official with whom Plaintiffs' application for an immigrant visa was properly filed.

JURISDICTION

6. Jurisdiction in this case is proper under 28 USC §§1331 and 1361, 5 USC § 701 *et seq.*, 28 USC § 2201 *et seq.*, 28 USC § 2241 *et seq.* Relief is requested pursuant to said statutes.

VENUE

7. Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a Defendant is located and performs his official duties.

CAUSE OF ACTION

8. The Plaintiff properly filed an application for an I-485 Petition, pursuant to INA §§ 245 with the USCIS on January 30, 2004 (See Attached Exhibit A).
9. The Plaintiff was scheduled for an interview in connection with the aforementioned application on or about July 7, 2004.
10. At the time of the Plaintiff's interview the defendants had sufficient evidence and information to render a decision on his application.
11. No additional information has been requested from the plaintiff and he has filed five (5) written requests with the USCIS Boston Office to properly adjudicate this petition. They have failed to adhere to their own regulations and failed to act on his application.
11. Defendants' refusal to adjudicate the Plaintiff's petition in this case is, as a matter of law, arbitrary and not in accordance with the law. Defendants willfully, and unreasonably, have refused to adjudicate this petition, thereby depriving the Plaintiff of his constitutionally protected liberty rights to which he is entitled.
12. The Plaintiff has been greatly damaged by the failure of Defendants to act in accord with their duties under the law. He has been unfairly, improperly and unconstitutionally restrained by the U.S. government through the Department of Homeland Security and its various agencies. The Plaintiff has been restrained from working freely, traveling without restriction, and from accruing time to obtain the benefit of naturalization.
13. Additionally the Defendants have violated the Administrative Procedures Act, 5 USC §701 *et seq.*, are unlawfully withholding or unreasonably delaying action on the

Carlos Nin v. Michael Chertoff, et al.
A 74-914-332

Exhibit A

Copy of Plaintiff's I-485 Petition.

U.S. Department of Justice
Immigration and Naturalization Service

**Form I-485, Application to Register
Permanent Resident or Adjust Status**

START HERE - Please Type or Print

Part 1. Information About You.

Family Name Nin	Given Name Carlos	Middle Initial A
Address - C/O		
Street Number and Name 40 Mann Street		Apt. # 2
City Lawrence		
State MA	Zip Code 01841	
Date of Birth (month/day/year) 08/22/1967	Country of Birth Dominican Republic	
Social Security # 044-98-2213	A # (if any) 74-914-332	
Date of Last Arrival (month/day/year) 06/02/2000	I-94 # n/a	
Current INS Status PAROLEE	Expires on (month/day/year) n/a	

Part 2. Application Type. (check one)

I am applying for an adjustment to permanent resident status because:

- a. ☒ an immigrant petition giving me an immediately available immigrant visa number has been approved. (Attach a copy of the approval notice-- or a relative, special immigrant juvenile or special immigrant military visa petition filed with this application that will give you an immediately available visa number, if approved.)
- b. ☐ my spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category that allows derivative status for spouses and children.
- c. ☐ I entered as a K-1 fiancé(e) of a U.S. citizen whom I married within 90 days of entry, or I am the K-2 child of such a fiancé(e). [Attach a copy of the fiancé(e) petition approval notice and the marriage certificate.]
- d. ☐ I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment.
- e. ☐ I am a native or citizen of Cuba admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- f. ☐ I am the husband, wife or minor unmarried child of a Cuban described in (e) and am residing with that person, and was admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- g. ☐ I have continuously resided in the U.S. since before January 1, 1972.
- h. ☐ Other basis of eligibility. Explain. (If additional space is needed, use a separate piece of paper.)

I am already a permanent resident and am applying to have the date I was granted permanent residence adjusted to the date I originally arrived in the U.S. as a nonimmigrant or parolee, or as of May 2, 1964, whichever date is later, and: (Check one)

- i. ☐ I am a native or citizen of Cuba and meet the description in (e), above.
- j. ☐ I am the husband, wife or minor unmarried child of a Cuban, and meet the description in (f), above.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Applicant Interviewed	

Section of Law

- ☐ Sec. 209(b), INA
☐ Sec. 13, Act of 9/11/57
☐ Sec. 245, INA
☐ Sec. 249, INA
☐ Sec. 2 Act of 11/2/66
☐ Sec. 2 Act of 11/2/66
☐ Other _____

Country Chargeable

Eligibility Under Sec. 245

Approved Visa Petition
 Dependent of Principal Alien
 Special Immigrant
 Other _____

Preference

Action Block

To be Completed by
 Attorney or Representative, if any

☒ Fill in box if G-28 is attached to represent the applicant.

VOLAG#

ATTY State License # **634881**

Continued on back

Part 3. Processing Information.

A. City/Town/Village of Birth Duverge		Current Occupation Shipping & Handling	
Your Mother's First Name Grecia		Your Father's First Name Carlos	
Give your name exactly how it appears on your Arrival /Departure Record (Form I-94) Carlos Antonio Ventura Nin			
Place of Last Entry Into the U.S. (City/State) San Juan, Puerto Rico		In what status did you last enter? (Visitor, student, exchange alien, crewman, temporary worker, without inspection, etc.) Parolee	
Were you inspected by a U.S. Immigration Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Nonimmigrant Visa Number 19962778380010		Consulate Where Visa Was Issued Dominican Republic	
Date Visa Was Issued (month/day/year)	Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed	
Have you ever before applied for permanent resident status in the U.S.? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If you checked "Yes," give date and place of filing and final disposition.			

B. List your present husband/wife and all your sons and daughters. (If you have none, write "none." If additional space is needed, use a separate piece of paper.)

Family Name Nin	Given Name Lidia	Middle Initial M	Date of Birth (month/day/year) 03/29/1968
Country of Birth Lima, Peru	Relationship Spouse	A # 26-937-398	Applying with You? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Family Name Ventura	Given Name Nathaly	Middle Initial M	Date of Birth (month/day/year) 09/15/1988
Country of Birth Santo Domingo, Dominican Republic	Relationship Daughter	A # n/a	Applying with You? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Family Name Ventura	Given Name Carlos	Middle Initial J	Date of Birth (month/day/year) 01/09/1995
Country of Birth Santo Domingo, Dominican Republic	Relationship Son	A # n/a	Applying with You? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No

Continued i
attachmer

C. List your present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society or similar group in the United States or in other places since your 16th birthday. Include any foreign military service in this part. If none, write "none." Include the name(s) of the organization(s), location(s), dates of membership from and to, and the nature of the organization (s). If additional space is needed, use a separate piece of paper.

none

Part 3. Processing Information. (Continued)

Please answer the following questions. (If your answer is "Yes" to any one of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to adjust your status or register for permanent residence.)

1. Have you ever, in or outside the U. S.:
 - a. knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested? ☐ Yes ☒ No
 - b. been arrested, cited, charged, indicted, fined or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☒ No
 - c. been the beneficiary of pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☒ No
 - d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U. S.? ☐ Yes ☒ No
2. Have you received public assistance in the U.S. from any source, including the U.S. government or any state, county, city or municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future? ☐ Yes ☒ No
3. Have you ever:
 - a. within the past ten years been a prostitute or procured anyone for prostitution, or intend to engage in such activities in the future? ☐ Yes ☒ No
 - b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☒ No
 - c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally? ☐ Yes ☒ No
 - d. illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the illicit trafficking of any controlled substance? ☐ Yes ☒ No
4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, or have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has ever engaged or conspired to engage, in sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☒ No
5. Do you intend to engage in the U.S. in:
 - a. espionage? ☐ Yes ☒ No
 - b. any activity a purpose of which is opposition to, or the control or overthrow of, the government of the United States, by force, violence or other unlawful means? ☐ Yes ☒ No
 - c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information? ☐ Yes ☒ No
6. Have you ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party? ☐ Yes ☒ No
7. Did you, during the period from March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national origin or political opinion? ☐ Yes ☒ No
8. Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin or political opinion? ☐ Yes ☒ No
9. Have you ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or are you now in exclusion or deportation proceedings? ☐ Yes ☒ No
10. Are you under a final order of civil penalty for violating section 274C of the Immigration and Nationality Act for use of fraudulent documents or have you, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the U.S. or any immigration benefit? ☐ Yes ☒ No
11. Have you ever left the U.S. to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☒ No
12. Have you ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver? ☐ Yes ☒ No
13. Are you now withholding custody of a U.S. citizen child outside the U.S. from a person granted custody of the child? ☐ Yes ☒ No
14. Do you plan to practice polygamy in the U.S.? ☐ Yes ☒ No

Continued on back

Form 1-485 (Rev. 02/07/00)N Page 3

Part 4. Signature. *(Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)*

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records which the INS needs to determine eligibility for the benefit I am seeking.

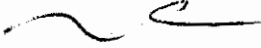
Selective Service Registration. The following applies to you if you are a man at least 18 years old, but not yet 26 years old, who is required to register with the Selective Service System: I understand that my filing this adjustment of status application with the Immigration and Naturalization Service authorizes the INS to provide certain registration information to the Selective Service System in accordance with the Military Selective Service Act. Upon INS acceptance of my application, I authorize INS to transmit to the Selective Service System my name, current address, Social Security number, date of birth and the date I filed the application for the purpose of recording my Selective Service registration as of the filing date. If, however, the INS does not accept my application, I further understand that, if so required, I am responsible for registering with the Selective Service by other means, provided I have not yet reached age 26.

Signature	<i>Carlos Nin</i>	Print Your Name	Date	Daytime Phone Number
		Carlos A Nin	01/28/2004	(978) 557-0395

Please Note: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested benefit and this application may be denied.

Part 5. Signature of Person Preparing Form, If Other Than Above. (Sign Below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature		Print Your Name	Date	Daytime Phone Number
		Desmond P. FitzGerald	01/28/2004	(617) 542-0033

Firm Name and Address FitzGerald & Company, LLC
59 Temple Place, Suite 444, Boston, MA 02111

Carlos Nin v. Michael Chertoff, et al.
A 74-914-332

Exhibit B.

**Copies of Five Written Case Status Requests to the USCIS District
Office in Boston.**

FITZGERALD & COMPANY, LLC

FitzGerald & Company LLC
Attorneys at Law
18 Tremont Street, Suite 210
Boston, MA 02108
T: 617.523.6320
F: 617.523.6324
fitzgeraldlawcompany.com

October 12, 2004

Officer Elvira Berroa
Examination Unit/USCIS
JFK Federal Building, Room E-170
Boston, MA 02203

RE: Carlos Nin
Our File No.: 2271
Your File No.: A 74-914-332

Dear Officer Berroa:

As you are aware this office represents the above-named client in connection with a pending I-485 adjustment of status application.

On July 7, 2004 our client attended her scheduled marriage petition interview with your office. At that time we were informed that your office would reach a decision once our client's background check was completed. At this time, we are requesting a decision at your earliest possible convenience.

Thank you for your prompt attention to this matter.

Sincerely,


Desmond P. FitzGerald, Esq.

DPF/cg

RECEIVED
OCT 17 11 18 AM '04
FBI NEW YORK
FBI NEW YORK

FITZGERALD & COMPANY, LLC

FitzGerald & Company LLC
Attorneys at Law
18 Tremont Street, Suite 210
Boston, MA 02108
T: 617.523.6320
F: 617.523.6324
fitzgeraldlawcompany.com

November 20, 2004

Officer Elvira Berroa
Examination Unit/USCIS
JFK Federal Building, Room E-170
Boston, MA 02203

RE: Carlos Nin
Our File No.: 2271
Your File No.: A 74-914-332

Dear Officer Berroa:

As you are aware this office represents the above-named client in connection with a pending I-485 adjustment of status application.

On July 7, 2004 our client attended his marriage petition interview with your office. At that time we were informed that your office would reach a decision once our client's background check was completed. At this time, we are requesting that our office be notified of the decision in this case at your earliest possible convenience.

Thank you for your prompt attention to this matter.

Sincerely,


Desmond P. FitzGerald

DPF/me

FITZGERALD & COMPANY, LLC

FitzGerald & Company LLC
Attorneys at Law
18 Tremont Street, Suite 210
Boston, MA 02108
T: 617.523.6320
F: 617.523.6324
fitzgeraldlawcompany.com

January 27, 2005

Officer Elvira Berroa
Examination Unit/USCIS
JFK Federal Building, Room E-170
Boston, MA 02203

RE: Carlos Nin
Our File No.: 2271
Your File No.: A 74-914-332

Dear Officer Berroa:

As you are aware this office represents the above-named client in connection with a pending I-485 adjustment of status application.

On July 7, 2004 our client attended his marriage petition interview with your office. At that time we were informed that your office would reach a decision once our client's background check was completed. At this time, we are requesting that our office be notified of the decision in this case at your earliest possible convenience.

Thank you for your prompt attention to this matter.

Sincerely,


Desmond P. FitzGerald

DPF/lv

FITZGERALD & COMPANY, LLC

FitzGerald & Company LLC
 Attorneys at Law
 18 Tremont Street, Suite 210
 Boston, MA 02108

T: 617.523.6320
 F: 617.523.6324
 fitzgeraldlawcompany.com

March 7, 2005

Officer Elvira Berroa
 Examination Unit/USCIS
 JFK Federal Building, Room E-170
 Boston, MA 02203

RE: Carlos Nin
 Our File No.: 2271
 Your File No.: A 74-914-332

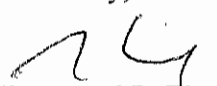
Dear Officer Berroa:

As you are aware this office represents the above-named client in connection with a pending I-485 adjustment of status application.

On July 7, 2004 our client attended his marriage petition interview with your office. At that time we were informed that your office would reach a decision once our client's background check was completed. At this time, we are requesting that our office be notified of the decision in this case at your earliest possible convenience.

Thank you for your prompt attention to this matter.

Sincerely,


 Desmond P. FitzGerald

DPF/lv

2004 2890 0000 5465 2587

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 3.37
Certified Fee	2.30
Return Receipt Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.92
Postmark Here	
Sent To USCIS - Officer Berroa, Examination Unit, Room E-170 JFK Bldg Boston, MA 02203	

PS Form 3800, June 2002 See Reverse for Instructions

FITZGERALD & COMPANY, LLC

FitzGerald & Company LLC
Attorneys at Law
18 Tremont Street, Suite 210
Boston, MA 02108
T: 617.523.6320
F: 617.523.6324
fitzgeraldlawcompany.com

April 4, 2005

Officer Elvira Berroa
Examination Unit/USCIS
JFK Federal Building, Room E-170
Boston, MA 02203

RE: Carlos Nin
Our File No.: 2271
Your File No.: **A 74-914-332**

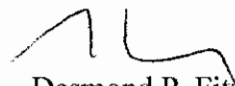
Dear Officer Berroa:

As you are aware this office represents the above-named client in connection with a pending I-485 adjustment of status application.

On July 7, 2004 our client attended his marriage petition interview with your office. At that time we were informed that your office would reach a decision once our client's background check was completed. We are requesting that our office be notified of the decision in this case at your earliest possible convenience.

Please contact our office immediately if we can be of any assistance in connection to this matter.

Sincerely,



Desmond P. FitzGerald

DPF/lv

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Carlos Nin v. Michael Chertoff

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. ☐ 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. ☒ 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. ☐ 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. ☐ 220, 422, 423, 430, 480, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 851-865, 870, 871, 875, 900.
- V. ☐ 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☒ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☒ NO ☐

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Desmond P. FitzGerald

ADDRESS FitzGerald & Company, LLC. 18 Tremont Street, suite 210, Boston, MA

TELEPHONE NO. (617) 523-6320 02108

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Carlos Nin

(b) County of Residence of First Listed Plaintiff

Essex

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Desmond P. FitzGerald, FitzGerald & Company, LLC., 18 Tremont Street, #210, Boston, MA 02108

DEFENDANTS Michael Chertoff, Secretary of the Department of Homeland Security; Eduardo Aguirre, Director of U.S. Citizenship and Immigration Services; Denis Riordan, U.S. District Court Director, USCIS

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S.C. statute(s) you are filing. (Do not cite jurisdictional statutes unless diversity):
 28 U.S.C. sec. 1331; and 1361, 5 U.S.C. sec. 701; 28 U.S.C. 224

Brief description of cause: have not adjudicated the plaintiff's
 The defendants applications as required by law.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 13, 2005

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE